Legislative Successes and Failures for Conservatism in 2009

This document highlights *some* of the legislative successes and failures for conservatism in the House in 2009. **This list is not intended to be exhaustive and is not written for mass circulation.**

Successes for Conservatism

- Passing a resolution that would require each Committee to hold hearings on waste, fraud, abuse, and mismanagement in Government programs under the jurisdiction of that committee. (H.Res. 40)

- Passing a resolution that expressed disapproval of obligations under the Emergency Economic Stabilization Act of 2008. If enacted, the resolution would have the effect of denying the Treasury Department the authority to spend the final $350 billion of TARP funding. (H.J.Res 3)

- Bringing down a suspension that would delay the Digital Television transition date to June 12, 2009 (from February 17th) and extend the deadline for consumer coupon requests to July 31, 2009 (from March 31). (S. 328)

- Keeping a united Republican front against the "stimulus" bill that passed the House (see below for description of what the bill does). The entire GOP Conference voted against one of the most massive spending bills in our nation's history. (H.R. 1).

- Defeating a resolution on suspension that would have expressed that "the President is appropriately exercising all of the authorities granted by Congress under the Emergency Economic Stabilization Act of 2008." While the resolution calls for AIG to, "repay taxpayers for the hundreds of millions of dollars the company provided to executives and employees in retention bonuses," it presents serious conservative concerns because it does not address the issue of the handling of the TARP funds and the bailouts in the first place. It praises the Administration for its handling of the issue (H.Con.Res. 76).

- Defeating a bill on suspension that would have blocked millions of acres of land from new oil and gas leasing, logging, mining, and all other business activity. The bill would also have eliminated1.2 million acres from mineral leasing and energy exploration in Wyoming alone - withdrawing 331 million barrels of recoverable oil and 8.8 trillion cubic feet of natural gas from domestic energy supply. Additionally, it would have designated more than 2 million acres of land as wilderness areas, permanently eliminating human access for energy exploration or recreational opportunities. The bill would have authorized $5.5 billion of new discretionary spending over five years and $900 million of direct spending (S. 22).

- Defeating a bill on suspension that would allow U.S. district courts to recoup or prevent excessive bonuses from TARP institutions, or from Fannie Mae, Freddie Mac or a Federal home loan bank. The bill will not constrain executive compensation. It will merely leave the issue up to over a thousand judges to determine for themselves whether compensation exceeds, "reasonably equivalent value" for services (H.R. 1575).

- Passing a motion to recommit (much of which was eventually removed during Senate consideration of the GIVE Act) that would have prohibited the use of funds in the GIVE Act from being used to assist organizations that provide or promote abortion services, including referral; for-profit organizations, organizations engaged in political or legislative advocacy; or organizations that have been indicted for voter fraud.

Failures for Conservatism

- Passing a bill that would negate the *Ledbetter v. Goodyear Tire & Rubber Co.* (*2007*, No. 05-1074) decision and change current law to allow wage-discrimination claims based on sex plus race, color, religion, or national origin. This change would allow for EEOC complaints (and damages) for actions outside the current statutory timeframe of 180 days – allowing for claims to be filed decades after they may have occurred. The bill invites stale claims. (H.R. 11)

- Passing a bill that would create *unlimited* punitive and compensatory damages for violations of the Equal Pay Act without having to show intent to discriminate. The Paycheck Fairness Act makes it difficult for employers to defend legitimate pay differentials between employees by requiring employers to affirmatively demonstrate that the differential is not based on sex, is specific to the position in question, and is consistent with business activity. (H.R. 12)

- Passing a bill that would reauthorize and significantly expand the State Children's Health Insurance Program (SCHIP) over four and a half years, place severe restrictions on the expansion of current physician-owned hospitals, and an outright ban on all new hospitals, while increasing cigarette taxes. The bill provides $39.4 billion over five years and $73.3 billion over ten years in *new* mandatory spending. This spending is on top of the $25 billion over five years that would result from a straight extension of the program. (H.R. 2)

- Passing a bill that sets new requirements on how the final $350 billion of Troubled Asset Relief Program (TARP) money may be used. The bill does <u>NOT</u> disapprove the President's request to tap the final $350 billion, but is instead designed to accommodate it. It allows TARP money to be used for an auto bailout; expands the allowable uses of TARP money to include support of state and local municipal bonds, consumer loans, and commercial real estate loans; and gives the Treasury Secretary very broad authority to decide how to enforce many of the provisions of the bill. (H.R. 384)

- Passing a “stimulus” bill that would spend $818 billion on programs that will do nothing to stimulate the economy. Of the $818 billion increase to the deficit that this legislation would cause, only 26% (or $212 billion) is attributable to revenue reductions—the other 74% is all spending increases. Many economists argue that there is no historical precedent for a stimulus spending-driven economic recovery. Even many liberal economists predict that if this legislation passes, the unemployment rate will remain around 8% over the next couple of years. The bill also prevents school choice in the $79 billion State Stabilization Fund (even in the case of IDEA funding where it is currently allowed) (H.R. 1).

- Passing the “stimulus” conference report that will cost ***$3.271 trillion*** including interest payments, over ten years (the House-passed version, H.R. 1, was $2.527 trillion) and includes much of the egregious spending listed above (H.R. 1).

- Passing an omnibus which increases FY 2009 spending by $32 billion or 8.4% compared to last year. This is on top of the spending for FY 2009 in the “stimulus.” Agencies funded by both bills receive a $301 billion or 80% increase. The FY 2009 omnibus ends the FY 2009 regular appropriations process with a total spending level of $1.01 trillion – an increase of $72.4 billion, or 7.7% compared to last year. This is the first time in U.S. history that the $1 trillion threshold has been crossed**.** The bill also contains at a cost to taxpayers of $7.7 billion and provides an increase of between 4% and 13% for each of the 9 bills that make up the omnibus. Even the Legislative Branch bill gets an 11% increase. And compared to the Administration’s FY 2009 request (submitted by former President Bush), seven of the nine bills receive increases (H.R. 1105).

- Passing a bill entitled the Stop Child Abuse in Residential Teen Programs Act that did not include an amendment that would have required that a covered facility under the bill create a policy to ensure that parental consent is required before any prescription medication (including contraception), not previously disclosed in writing by such parents or legal guardians, may be dispensed to such child (H.R. 911).

- Passing a bill that would allow judges to “cramdown” a loan, or lower the amount a borrower must pay a creditor on a loan. Cramdowns on principal residences are currently not allowed under Chapter 13 bankruptcy. The result of this bill would be a raise in interest rates, tightening of lending requirements, and an increase in down payments. The bill will also encourage bankruptcy filings and give away free money by allowing no-interest loans. The bill will create a significant cost to future borrowers who will have to make up for money lost to lenders due to cramdowns (H.R. 1106).

- Passing a bill that expands Davis-Bacon prevailing wage requirements to the Clean Water State Revolving Fund (authorized in the bill at $13.8 billion over five years). Davis-Bacon increases the cost of projects to taxpayers by up to 15% on average, and favors large, unionized businesses over smaller companies because of the paperwork required to comply with the law. The legislation also authorizes a total of $18.7 billion worth of discretionary spending over five years, including $13.8 billion for the Clean Water State Revolving Fund, a program for which President Reagan attempted to phase-out federal funding. Finally, the bill imposes several mandates on state and local governments. According to CBO, "the annual cost of complying with those mandates would likely exceed the threshold established in UMRA ($69 million for intergovernmental mandates in 2009, adjusted annually for inflation)" (H.R. 1262).

- Passing a bill that would spend almost $6 billion for "volunteer" programs, stretching the definition of a volunteer by paying them for their service, frequently providing volunteers with health benefits, housing, and other items that undermine the definition of a volunteer. This bill is part of a Democrat agenda to force taxpayers to fund liberal service organizations, while at the same time, increasing taxes on charitable donations for individuals who want to support organizations of their choice. The bill also funds programs which have been described as "Not Performing: Results Not Demonstrated" by the Office of Management and Budget's Program Assessment Rating Tool. Additionally, it funds AmeriCorps National Civilian Community Corps which OMB describes as "Not Performing: Ineffective." During a time of economic crisis, the federal government should not be funding programs that have shown little or no results (H.R. 1388).

- Passing a bill that would impose a **90%** tax for bonuses received by an employee of a company that has received funds in excess of $5 billion from the Troubled Asset Relief Program (TARP)—or an employee of Fannie Mae or Freddie Mac. The bill establishes a gross income exemption (including the bonus) of $250,000--or $125,000 in the case of a married individual filing separately. Many conservatives may believe may be concerned that this legislation establishes the precedent that the tax code can be used to impose confiscatory tax rates on other individuals and that this legislation is a "Bill of Attainder"—a legislative action aimed at punishing individuals, explicitly prohibited by the Constitution in Article I, Section 9, Clause 3. Additionally, most conservatives remain opposed to the massive taxpayer "bailouts" of private organizations. Without the bailouts, the taxpayers would never have been put in the position of their dollars being doled out for executive bonuses. But since the bonuses have been distributed, the solution is not to compound the problem with more inappropriate actions by the federal government (H.R. 1586).

- Passing a bill that would grant broad new authority to the Food and Drug Administration (FDA) to regulate and impose new restrictions on the manufacture, distribution, advertising, labeling, disclosure, promotion, sale and use of tobacco (cigarettes and smokeless) funded through a tax on tobacco companies. The bill would increase taxes on tobacco companies by $995 million over 10 years on top of the $72.1 billion tobacco tax over 10 years that took effect in late March, in order to fund the expansion of SCHIP (H.R. 1256).

- Passing a bill that would authorize the Secretary of Interior to study, establish, and redesignate numerous National Parks, National Wildernesses, National Heritage Areas, National Trails, National Scenic River designations, and codify the National Landscape Conservation System (NLCS). It would also authorize land conveyances and exchanges, federal boundary adjustments, memorials, museums, reclamation projects, and commissions. Additionally, the bill authorizes programs for ocean exploration, local water infrastructure, underwater research, and paralysis research. The legislation blocks millions of acres from new oil and gas leasing, logging, mining, and all other business activity in these areas. The bill also eliminates 1.2 million acres from mineral leasing and energy exploration in Wyoming alone - withdrawing 331 million barrels of recoverable oil and 8.8 trillion cubic feet of natural gas from domestic energy supply (H.R. 146).

- Passing a bill that H.R. 1664 will prevent any executive or employee of a financial institution receiving Troubled Assets Relief Program (TARP) or Housing and Economic Recovery Act (HERA) “capital investment” funds from compensation that is defined as “unreasonable” or “excessive” or any bonus that is not “performance-based.” The bill would apply to new and existing compensation arrangements (H.R. 1664).

- Passing a Democrat Budget Resolution that proposes the six largest nominal deficits in U.S. history. The lowest deficit proposed by the budget resolution—the $586 billion deficit in FY 2013—is $127 billion or 27.7% greater than the highest deficit in U.S. history (last year’s $459 billion deficit). The budget resolution also proposes colossal tax increases, unsustainable borrowing, and skyrocketing discretionary spending (H.Con.Res. 85).